

Enright v. Groves, Colorado Court of Appeals, 1977 39 Colo.App. 39, 560 P.2d 851
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Brief Fact Summary

Defendant, a police officer, demanded plaintiff's driver's license when he observed her dog without a leash. When plaintiff failed to provide the license defendant grabbed her arm and placed her under arrest.

Rule of Law and Holding

"False arrest arises when one is taken into custody by a person who claims but does not have proper legal authority. Accordingly, a claim for false arrest will not lie if an officer has a valid warrant or probable cause to believe that an offense has been committed and that the person who was arrested committed it."

Topics

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Edited Opinion

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OPINION BY: SMITH

Defendants Groves and City of Ft. Collins appeal from judgments entered against them upon jury verdicts awarding plaintiff \$ 500 actual damages and \$ 1,000 exemplary damages on her claim of false imprisonment...

The evidence at trial disclosed that on August 25, 1974, Officer Groves, while on duty as a uniformed police officer of the City of Fort Collins, observed a dog running loose in violation of the city's "dog lease" ordinance. He observed the animal approaching what was later identified as the residence of Mrs. Enright, the plaintiff. As Groves approached the house, he encountered Mrs. Enright's eleven-year-old son, and asked him if the dog belonged to him. The boy replied that it was his dog, and told Groves that his mother was sitting in the car parked at the curb by the house. Groves then ordered the boy to put the dog inside the house, and turned and started walking toward the Enright vehicle.

Groves testified that he was met by Mrs. Enright with whom he was not acquainted. She asked if she could help him. Groves responded by demanding her driver's license. She replied by giving him her name and address. He again demanded her driver's license, which she declined to produce. Groves thereupon advised her that she could either produce her driver's license or go to jail. Mrs. Enright responded by asking, "Isn't this ridiculous?" Groves thereupon grabbed one of her arms, stating, "Let's go!"

One eyewitness testified that Mrs. Enright cried out that Groves was hurting her. Her son who was just a few feet away at the time of the incident testified that his mother also screamed and tried to explain that her arm dislocated easily. Groves refused to release her arm, and Mrs. Enright struck him in the stomach with her free hand. Groves then seized both arms and threw her to the ground. With her lying on her stomach, he brought one of her arms behind her in order to handcuff her. She continued to scream in pain and asked him to stop hurting her. Groves pulled her up and propelled her to his patrol car where, for the first time, he advised her that she was under arrest.

She was taken to the police station where a complaint was signed charging her with violation of the "dog leash" ordinance and bail was set. Mrs. Enright was released only after a friend posted bail. She was later convicted of the ordinance violation...

I.

Appellants contend that Groves had probable cause to arrest Mrs. Enright, and that she was in fact arrested for and convicted of violation of the dog-at-large ordinance. They assert, therefore, that her claim for false imprisonment or false arrest cannot lie, and that Groves use of force in arresting Mrs. Enright was permissible. We disagree.

False arrest arises when one is taken into custody by a person who claims but does not have proper legal authority. W. Prosser, Torts § 11 (4th ed.). Accordingly, a claim for false arrest will not lie if an officer has a valid warrant or probable cause to believe that an offense has been committed and that the person who was arrested committed it. Conviction of the crime for which one is specifically arrested is a complete defense to a subsequent claim of false arrest.

Here, however, the evidence is clear that Groves arrested Mrs. Enright, not for violation of the dog lease ordinance, but rather for refusing to produce her driver's license. This basis for the arrest is exemplified by the fact that he specifically advised her that she would either produce the license or go to jail. We find no statute or case law in this jurisdiction which requires a citizen to show her driver's license upon demand, unless, for example, she is a driver of an automobile and such demand is made in that connection...

Here, there was no testimony that Groves ever even attempted to explain why he was demanding plaintiff's driver's license, and it is clear that she had

already volunteered her name and address. Groves admitted that he did not ask Mrs. Enright if she had any means of identification on her person, instead he simply demanded that she give him her driver's license.

We conclude that Groves' demand for Mrs. Enright's driver's license was not a lawful order and that refusal to comply therewith was not therefore an offense in and of itself. Groves was not therefore entitled to use force in arresting Mrs. Enright. Thus, Groves' defense based upon an arrest for and conviction of a specific offense must, as a matter of law, fail...

Judgment affirmed.

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